

# Lobbying & Law

## Financial Guns of August

By Peter H. Stone

■ President Obama's proposal for a Consumer Financial Protection Agency has sparked a heated lobbying fight.

■ Financial services companies and trade groups are trying to kill, or at least water down, the plan.

■ A huge coalition of consumer, labor, and civil-rights groups is pushing for passage.

**W**hen members of Congress from key finance committees arrive home for summer break, they can expect to be bombarded by the guns of August—K Street-style.

Scores of House and Senate members are sure to be blasted with letters, e-mails, and visits from large and small bankers, mortgage lenders, credit card companies, and other financial services players riled up about one of President Obama's top regulatory reform proposals: creating a Consumer Financial Protection Agency.

The proposed agency, modeled after the Consumer Product Safety Commission, would be charged with protecting the public from deceptive financial ads, predatory lending, insufficient disclosure of loan terms, and other abuses that many analysts have identified as factors that contributed to the nation's current financial woes.

Opposition to the idea of a CFPA was already intense inside the Beltway, and it has increased markedly this summer. Dozens of trade groups, among them the American Bankers Association, the American Financial Services Association, the American Land Title Association, the Financial Services Roundtable, the Independent Community Bankers of America, and the U.S. Chamber of Commerce, are pouring resources into the fight.

"A lot of groups are planning grassroots activities during the recess because you often win or lose big legislative issues in August," said Kurt Pfothenauer, the CEO of the land title group.

On the other side, 200 consumer groups, unions, and civil-rights organizations have formed a coalition—Americans for Financial Reform—that will be deluging lawmakers with a positive message about the proposed agency. Ed Mierzwinski, the top financial services lobbyist for the U.S. Public Interest Research Group,

which belongs to the coalition, said, "We have never had this big and formal a coalition with central staff with the goal of taking the fight outsidez the Beltway."

Americans for Financial Reform is looking to raise \$5 million for a PR and advocacy drive focusing on four key issues, one of which is backing Obama's plan for the consumer financial regulator.

If Congress does pass legislation to create a CFPA—originally the brainchild of Harvard law professor Elizabeth Warren—the agency would have strong regulatory powers over issues that touch Americans' lives. "The idea behind the agency is simple," Warren said in an interview. "People ought to be able to comparison shop for credit cards and mortgages, the way that they [do] for cereal. No one should be fooled about which [products] rot your teeth."

Many financial companies and their trade groups argue that the agency would drive up the cost of doing business and create a cumbersome bureaucracy. Many financial services lobbyists worry that the agency's powers and goals could clash with those of other bank regulators, such as the Federal Reserve, which mainly focuses on issues of safety and soundness but historically has also had a consumer-protection mandate. Many analysts argue, however, that the Fed has failed to adequately exercise its consumer-related authority.

"We're opposed to a stand-alone regulator, period," said David Hirschmann, who runs the chamber's capital markets center. "This is not the right way to do it [because], as drafted, the legislation is so sweeping and covers so many people."

Steve Verdier, a top lobbyist with the Independent Community Bankers of America, said that his group's 5,000 members are chiefly worried that the administration's plan will increase the regulatory burden on banks and that conflicts could arise because "you'd have consumer regu-



lators who didn't take into account safety and soundness concerns."

The administration plan has been embraced by key Democrats on the Hill, none more powerful than Rep. Barney Frank, D-Mass., the chairman of the House Financial Services Committee, and Sen. Christopher Dodd, D-Conn., who chairs the Senate Banking Committee.

But in late July, with financial-sector and other lobbyists putting up stiff resistance, Frank postponed until early September the legislative markup, which was originally to take place before the recess.

Frank has been the Hill's leading voice pushing for the new regulatory agency. He foresees a battle royal in August and when Congress returns after Labor Day, but stresses that he is open to modifying the administration's proposal and that the legislation will ultimately pass. "I think this is a fight that they'll lose as it progresses," Frank said in an interview, referring to the industry lobbyists. "I think this will shift from a debate on whether [to create the CFPB] to a debate on how [to create it]."

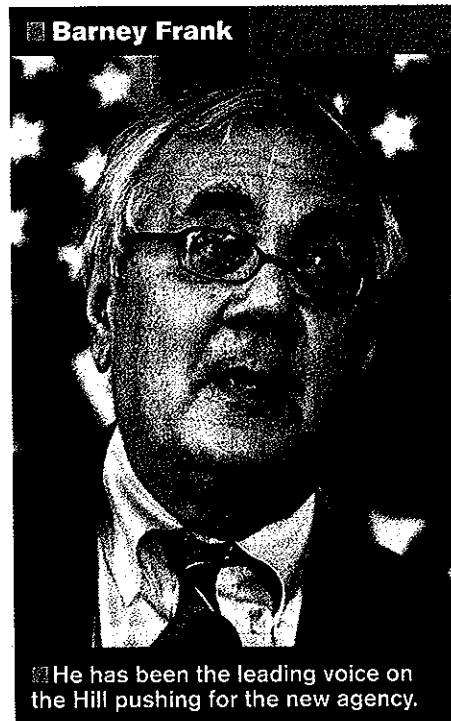
With an eye toward defusing the opposition, Frank said he intends to address some criticisms from opponents, including the concerns that smaller banks have raised about the potential conflicts between their primary safety and soundness regulator and a new financial products agency by providing for an arbiter that will help mediate disputes. "No bank will be faced with conflicting demands," Frank said.

On that score, the agency proposal is facing fire from the Federal Reserve Board and softer criticism from the Federal Deposit Insurance Corp. Fed Chairman Ben Bernanke testified in July about his concern that the new agency would encroach on Fed powers. Frank mostly downplays their objections. "The regulators don't affect any votes in Congress by defending their turf," Frank said.

The K Street lobbying battle over the agency began to escalate about a month ago. A few dozen business groups started meeting under the auspices of the American Financial Services Association to discuss coordinating their messages with the goal of killing the proposed agency if possible, but at least sharply curtailing its powers and mission.

The AFSA has been hitting up many trade groups for donations of \$15,000 apiece for the coordinated lobbying ef-

fort, but it's unclear how much has been raised so far. The AFSA did commission outside polling to test the most-effective messages to use against the legislation and in mid-July presented the results at a Hill meeting that drew about a dozen lobbyists as well as aides to Rep. Spencer Bachus, R-Ala., the ranking member on the Financial Services Committee. Many of the same lobbyists held a follow-up meeting with Bachus's aides on July 27, according to a lobbyist involved in the fight, who adds that Republicans are "helping to coordinate stakeholder opposition to the more onerous parts of the legislation."



Bill Himpler, the top lobbyist at the AFSA, echoes the position of others in the financial services sector when he says that the CFPB "calls for a new layer of bureaucracy and new taxes."

Separately, the chamber in mid-July hosted a meeting with some of the same financial trade groups, as well as other business interests that a new agency could affect, to explore building a joint effort.

Hirschmann, who hosted the chamber meeting, points out that the proposed agency could spark broad concerns because, among other things, it would grant more authority to state attorneys general to bring legal actions. "I think there may be mini-coalitions around different pieces of the legislation," Hirschmann said. In July, the chamber organized a joint let-

ter to the Hill opposing the agency, and many large financial trade groups and other businesses signed it. The chamber is considering an advertising drive too, Hirschmann said.

Other big trade groups are deploying their own firepower. "Our goal would be that there not be a separate agency," said Ed Yingling, the president of the ABA, which now counts the issue as one of its top two legislative priorities. The ABA has launched a letter-writing campaign and recently sent scores of its state executives and local bankers—who were in town for an ABA meeting—up to the Hill to lobby on their concerns.

Other key groups, such as the community bankers, might be open to compromise. Verdier stressed that his group "is opposed to the agency in its current form" but adds that "we want to keep the door open to Chairman Frank.... We're at the beginning of the legislative process."

For their part, consumer groups recognize that they have their work cut out for them. They argue that a strong historical case exists for creating the agency, a point similar to one that Treasury Secretary Timothy Geithner made in congressional testimony. "There's been a 20-year track record of inefficiency at the Fed when it comes to consumer protections," said Travis Plunkett, a top lobbyist with the Consumer Federation of America. "Consumer protection has always taken a back-seat to the Fed's other missions."

Furthermore, veteran liberal activist Heather Booth, the executive director of the 200-member coalition that's backing the new agency, said that it held about 20 rallies in support of a new agency outside local chambers and banks in such places as Kansas City and New York to bring attention to the opposition. Booth added that plans are in the works for town hall meetings and individual visits with members over the recess.

The coalition has also tapped two outside consultants, Fenton Communications and Americans United for Change, to help get its message out.

But Mierzwinski of U.S. PIRG frets that financial services lobbyists have "muddied the waters with their letters" to Capitol Hill. Still, he said that "we count most members as undecided rather than against" legislation, which means that the lobbying will only intensify. ■

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